

Timeline of Events

Date	Action	Notes
Apr. 27, 2018	S 450 – TGL v. Matloff	TGL's suit on Mr. Matloff's personal guarantee
May 5, 2018	OS 544 – TGL v. Gandiva	Suit to enforce Share Charge Deed for 43% of Rooftop
Dec. 5, 2018	S 450	<ul style="list-style-type: none"> Judgment for TGL (v. Matloff) - \$4.4MM + 5% per month interest until settlement of principal. Application to Domesticate filed in SD TX (now stayed)
Mar. 6, 2019	S 252 – TGL v. Rooftop Group International, Asian Express, and Gandiva	TGL's suit to enforce corporate cross guarantees
April 1, 2019	S 450/ SUM 1653	TGL files Application for leave to commence committal proceedings
April 16, 2019	S 450/ SUM 1653	Court enters its Order granting leave to TGL to commence committal proceedings
April 29, 2019	S 450/ SUM 1653	Summons is issued to Mr. Matloff in conjunction with TGL's committal proceedings
April 30, 2019	19-31443	<u>In re Rooftop Group International Pte. Ltd.</u> filed
June 18, 2019	OS 773	Rooftop's Action to Stay S 252, OS 544
	S 252	Judgment for TGL (v. Rooftop Group International) - \$6.4MM
June 19, 2019	19-32039	<u>In re Darren Scott Matloff</u> filed
June 26, 2019	OS 773	Singapore court adopts briefing schedule on application for stay in Rooftop proceedings.
July 8, 2019	S 450/SUM 2362	Mr. Matloff files his Affidavit in response to the committal proceedings.
July 9, 2019	19-32039	Notice of Appearance filed on behalf of TGL
July 16, 2019	19-32039	First Meeting of Creditors
July 22, 2019	S 450/SUM 2362	TGL files its Affidavit
July 24, 2019	19-32039	Motion to Appear Pro Hac Vice by Richard Mooney filed by TGL.
July 25, 2019	S 450/SUM 2362	TGL files Applicant's Written Submissions, requesting Mr. Matloff be incarcerated

Exhibit

A

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July 26, 2019	S 450/SUM 2362	The Singapore Court conducts a hearing on TGL's Application
August 13, 2019	19-32039	Continued Meeting of Creditors
	S 450/SUM 2362	Singapore Court sets this date as a deadline for additional affidavits from TGL and Mr. Matloff

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Case No.: HC/S 450/2018

Sub Case No.: HC/SUM 2362/2019

Filed: 29-April-2019 05:58 PM

Hearing Date : 23-May-2019

Hearing Time : 2:30 PM

Hearing Type : OS & Summons (Open Court)

Attend Before: Judge

Between

TRIUMPHANT GOLD LIMITED

(Cayman Islands Registration No. OI-293504)

...Plaintiff(s)

And

DARREN SCOTT MATLOFF

(United States Passport No. 530504825)

...Defendant(s)



SUMMONS FOR ORDER OF COMMITTAL

To: Defendant

Darren Scott Matloff
75 Vine Street, Unit 805
Seattle, WA 98121

Let all parties concerned attend before the Court on the date and time to be assigned for a hearing of an application by the Plaintiff for the following order(s):

1. That such punishment as the Court deems fit be imposed on the Defendant, Darren Scott Matloff ("Mr Matloff"), for his contempt of court in connection with his intentional disobedience and/or breach of the following Orders of Court:
 - a. HC/ORC 77/2019, read with the Court's Reply on Request for Re-fixing/Vacation of Hearing Dates dated 17 January 2019, requiring Mr Matloff to: (i) attend before the Registrar on 1 February 2019 at 9am and be orally examined as to whether he has any property or means of satisfying the Judgment obtained against him on 5 December 2018, and that he do produce any books or documents in his possession or power relating to the same at the time and place appointed for examination (the "EJD Hearing"); and (ii) serve on the Applicant an affidavit providing all answers and documents sought by the Applicant in the Questionnaire for the Examination of Darren Scott Matloff (the "Affidavit of Answers");
 - b. HC/ORC 77/2019, read with Registrar's Notice dated 1 February 2019, requiring Mr Matloff to: (i) attend before the Registrar for an EJD Hearing on 8 February 2019 at 9am; and (ii) serve the Affidavit of Answers on the Applicant; and
 - c. HC/ORC 908/2019, requiring Mr Matloff to: (i) attend before the Registrar for an EJD Hearing on 8 March 2019 at 9am; and (ii) serve the Affidavit of Answers on the Applicant by 11 February 2019, 5pm.

2.

Costs of and incidental to this application shall be paid by the Defendant to the Plaintiff.

Exhibit

B

The grounds of the application are:

1. Set out in the Statement pursuant to O 52 r 2(2) of the Rules of Court filed on the 1st day of April 2019, which is to be read in support of this summons together with the 1st affidavit of Hiroyuki Mukaibo and the exhibits therein, filed on the 1st day of April 2019.

Issued by :

Solicitor(s) for the Plaintiff(s)

Providence Law Asia LLC
20 COLLYER QUAY #21-02
Singapore 049319
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File Ref No.: AV/NK/KL/17329
Solicitor in charge: 1. LAU HUI MING, KENNY,
2. MOHAMED NAWAZ KAMIL

TEH HWEE HWEE
REGISTRAR
SUPREME COURT
SINGAPORE

DARREN SCOTT MATLOFF - July 16, 2019

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION
CASE NO.: 19-32039

IN RE:

DARREN SCOTT MATLOFF,

CHAPTER 7

Debtor.

_____/

Proceedings had and taken place before Scott M. Siedel on
Tuesday, the 16th day of July 2019, commencing at the hour of
9:50 a.m., and being a Meeting of Creditors.

Exhibit

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C

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TGL_000095

DARREN SCOTT MATLOFF - July 16, 2019

1 On Behalf of the Debtor:

2 SARAH COX

3 On Behalf of US Trustees:

4 SCOTT M. SIEDEL

5 On Behalf of Triumphant Gold Limited:

6 KATHARINE BATTAIA CLARK

7 Also Present:

8 DARREN SCOTT MATLOFF, Debtor

9

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DARREN SCOTT MATLOFF - July 16, 2019

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DARREN SCOTT MATLOFF - July 16, 2019

1 A. We have an accountant in California, we've
2 been using for years. His name is Andy Dickson. It
3 started out as a California company before we moved to
4 Texas.

5 Q. And we can put him in contact with the Trustee,
6 if necessary?

7 A. Yes, of course.

8 Q. I will pass the witness.

9 MR. SIEDEL: Let me open it up to you, if you
10 have some questions.

11 MS. CLARK: Yes.

12 DIRECT EXAMINATION

13 BY MS. CLARK:

14 Q. I'm Katharine Battaia Clark. I'm here
15 representing Triumphant Gold Limited, which you've
16 listed as a creditor in your bankruptcy schedules; is
17 that correct?

18 A. That's correct.

19 Q. I just have a few questions about your
20 schedules that you filed. What is Eastern Design Group
21 USA?

22 A. Many, many years ago, I formed a company to do
23 packaging design. It's pretty much -- it isn't solvent,
24 though.

25 MR. SIEDEL: You got to speak up.

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

HC/S 450/2018
HC/SUM 2362/2019

In the matter of Section 4 of the Administration of
Justice (Protection) Act 2016

And

In the matter of Order 52 rule 2 of the Rules of Court (Cap 322, R
5, 2014 Rev Ed)

TRIUMPHANT GOLD LIMITED
(Cayman Company Registration No. OI-293504)

...Applicant

And

DARREN SCOTT MATLOFF
(US Passport No. 530504825)

... Respondent

APPLICANT'S WRITTEN SUBMISSIONS

**SOLICITORS FOR THE
APPLICANT**
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SOLICITORS FOR THE RESPONDENT
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Ng Bin Hong

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Ref: -

Dated this 25th day of July 2019

Exhibit

D

I. INTRODUCTION

1. These written submissions are filed by the Applicant, Triumphant Gold Limited (“**TGL**”), in support of HC/SUM 2362/2019 (“**SUM 2362**”).¹ SUM 2362 is an application to commit Mr Darren Scott Matloff (“**Mr Matloff**”), the judgment debtor in HC/S 450/2018 (“**S 450**”) and the respondent in HC/SUM 6050/2018 (the “**EJD Proceedings**”), for his intentional disobedience and/or breach of the following Orders of Court made in the EJD Proceedings (the “**EJD Orders**”):
 - (a) HC/ORC 77/2019, read with the Court’s Reply on Request for Re-fixing/Vacation of Hearing Dates dated 17 January 2019 (the “**Court’s Reply**”), requiring Mr Matloff to: (i) attend before the Registrar on 1 February 2019 at 9am and be orally examined as to whether he has any property or means of satisfying the Judgment obtained against him on 5 December 2018, and that he do produce any books or documents in his possession or power relating to the same at the time and place appointed for examination (the “**EJD Hearing**”); and (ii) serve on the Applicant an affidavit providing all answers and documents sought by the Applicant (the “**Affidavit of Answers**”) in the Questionnaire for the Examination of Darren Scott Matloff (the “**Questionnaire**”)
 - (b) HC/ORC 77/2019, read with Registrar’s Notice dated 1 February 2019, requiring Mr Matloff to: (i) attend before the Registrar for an EJD

¹ Applicant’s Bundle of Documents (“**BOD**”) Tab 1.

Hearing on 8 February 2019 at 9am; and (ii) serve the Affidavit of Answers on the Applicant.

- (c) HC/ORC 908/2019 requiring Mr Matloff to: (i) attend before the Registrar for an EJD Hearing on 8 March 2019 at 9am; and (ii) serve the Affidavit of Answers on the Applicant by 11 February 2019, 5pm.
2. The aforesaid intentional disobedience / breaches of the aforesaid Court orders constitute offences under s 4(1)(a) of the Administration of Justice (Protection) Act 2016 (“AJPA”).² Pursuant to s 12(1)(a) of the AJPA, the commission of such offences attracts a punishment of a fine not exceeding S\$100,000, or imprisonment for a term not exceeding 3 years, or with both.
3. Based on the circumstances in which the EJD Orders had been breached in the present case, as will be detailed below, TGL respectfully asks that Mr Matloff be imposed a custodial sentence. Such a punishment is supported by case precedent, and is consistent with the need to achieve a deterrent effect and to ensure compliance with the EJD Orders in the present circumstances.
4. For ease of reference, and unless otherwise stated, TGL will adopt the same definitions as in the 1st affidavit of Hiroyuki Mukaibo dated 1 April 2019 filed in support of the present proceedings (“Hiro’s 1st Affidavit”).³

² Applicant’s Bundle of Authorities (“BOA”) Tab 1.

³ BOD Tab 2.

26. Accordingly, Mr Matloff is guilty of contempt of court for failure to comply with the EJD Orders.

IV. A CUSTODIAL SENTENCE SHOULD BE IMPOSED AS AGAINST MR MATLOFF FOR HIS CONTEMPT OF COURT

27. In an attempt to mitigate his offences, as noted above, Mr Matloff claims that he failed to file his Affidavit of Answers and failed to attend the EJD Hearings on three occasions, because he was disorganised and had a punishing schedule due to his business and having to deal with various legal actions.²¹
28. It is submitted that Mr Matloff's excuses do not stand up to scrutiny and are not mitigating factors. If anything, they evidence his lack of regard to the EJD Orders made against him.
29. From the period of 24 January 2019 to date (*i.e.*, the period of time in which Mr Matloff has failed to comply with the EJD Orders), Mr Matloff has engaged counsel (either on his behalf or on behalf of Rooftop, which he is the founder and CEO of) to represent him / Rooftop in the below proceedings and have also filed substantive affidavits in his name in respect of these proceedings:²²

²¹ Darren's 1st Affidavit at paragraph 6: BOD Tab 4.

²² Hiro's 2nd Affidavit at paragraph 31: BOD Tab 5.

- (a) Participating in the SIAC Proceedings and giving evidence for the hearing which was held from 21 March – 23 March 2019.
- (b) Instructing Rooftop's counsel to apply for further and better particulars in S 252 (vide HC/SUM 2016/2019) on 17 April 2019, and to attend a hearing for the same on 10 May 2019.
- (c) Instructing Rooftop's counsel to apply for the Chapter 11 Proceedings on 30 April 2019.
- (d) Filing a reply affidavit to the summary judgment application against Rooftop in S 252 on 29 May 2019.
- (e) Instructing Rooftop's counsel to file for a recognition of the Chapter 11 Proceedings in OS 773 and filing a substantive supporting affidavit spanning 1124 pages (with exhibits) under solicitor's cover on 18 June 2019.
- (f) Filing a petition for personal bankruptcy pursuant to Chapter 7 of the United States Bankruptcy Code on 19 June 2019.
- (g) Filing a reply affidavit to the summary judgment application against the other defendants (apart from Rooftop) in S 252 on 3 July 2019 (under solicitor's cover).

- (h) Filing Darren's 1st Affidavit (under solicitor's cover) on 8 July 2019, spanning a total of 276 pages (with exhibits).
30. The aforesaid actions taken by Mr Matloff during this period of time evidences that Mr Matloff clearly had access to counsel and could have, at any point in time, engaged counsel to respond to the EJD Orders. Mr Matloff also has not adequately explained why filing his Affidavit of Answers or attending the EJD Hearings would not have been possible for him.
31. It is submitted that he could have done so, but simply chose not to. It is not an excuse to say that Mr Matloff chose to prioritise other legal proceedings and/or his business over having to comply with the EJD Orders; indeed, this shows that Mr Matloff made a calculated and considered decision to ignore the EJD Orders and chose only to surface in the proceedings at this stage where he is about to be found guilty of contempt of court. These are not mitigating circumstances. To the contrary, they reinforce his lack of regard of the EJD Orders.
32. This is made all the more evident by the fact that Mr Matloff has now recently filed a petition for bankruptcy in the US courts where he claims that he only has assets of approximately US\$16,000. If this were really the case, it makes it all the more egregious that Mr Matloff had failed to file his Affidavit of Answers, even to date.

counsel, evinced no remorse and in fact denied having been in contempt of court. There was therefore little by way of mitigation.

58 *All in all, I was satisfied that a custodial sentence would be the only effective means to ensure Kurniawan's compliance with the EJD Order since he had shown himself to be a recalcitrant party in continually breaching a mandatory court order."*

[emphasis added]

45. The aggravating factors / lack of mitigating factors taken into account by Lai J are all present in this case. Further, as noted above, there is the additional fact here of Mr Matloff utilising the delay to engineer a situation where he has now filed for bankruptcy and claims to only have up to US\$16,000 in assets remaining.
46. In the circumstances, TGL therefore submits that a custodial sentence must be imposed in the present case and a sentence of more than seven days imprisonment is warranted given the exceptionally aggravating circumstances.

V. CONCLUSION

47. TGL asks that a commensurate custodial sentence be imposed to reflect the complete lack of regard which Mr Matloff has shown to the EJD Orders. For a recalcitrant judgment debtor such as Mr Matloff, a serious deterrent message

must be sent and this is also the only effective means to ensure his compliance with the EJD Orders moving forward.

Dated this 25th day of July 2019



R Providence

**SOLICITORS FOR THE APPLICANT
MESSRS PROVIDENCE LAW ASIA LLC**

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

1 HC/S 450 of 2018
2 (HC/SUM 2362 of 2019)

3

4 Between

5

6 **TRIUMPHANT GOLD LIMITED**

7

... Plaintiff

8

And

9

10 **DARREN SCOTT MATLOFF**

11

... Defendant

12

13 Coram : Judicial Commissioner Pang Khang Chau

14

15 *Lau Hui Ming Kenny (Providence Law Asia LLC) for the plaintiff;*

16 *Choo Zheng Xi and Ng Bin Hong (Peter Low & Choo LLC) for the defendant.*

17

18 **Notes of Argument**

19

20 **26 July 2019**

21

22 PC : Application to find the Defendant liable for contempt of court.

23

24 Ct : There is a new affidavit that came in today.

25

26 DC : That is my client's affidavit of assets pursuant to the Examination
27 of Judgment Debtor ("EJD") proceedings.

28

29 I will go into this in more detail for the purpose of mitigation.

30

31 My client came into Singapore from Los Angeles yesterday
32 morning. So I could only get him to sign off the affidavit yesterday
33 and I filed it at the earliest instance.

Exhibit

E

1

2 My firm has been instructed only on 10 June 2019.

3

4 To save time, I do not think we dispute the liability. So it is
5 undisputed fact that he failed to attend the EJD hearings.

6

7 PC : Background facts set out in [8]–[17] of my written submission.

8

9 Mens rea is intentional conduct.

10

11 It is clear that the conduct was intentional. The motive being
12 irrelevant to the question of liability.

13

14 DC : Regarding the first charge concerning the hearing on 1 February,
15 my client's position is that he did not see the e-mail until 7
16 February 2019. Plaintiff's response is that it is not likely. I will
17 submit later on how the court should weigh the evidence in
18 relation to charge 1.

19

20 PC : I think it is undisputed that, as of 24 January, the order was served
21 on Defendant. What Defendant is saying is that, due to the volume
22 of e-mails he received, he only found out on 7 February.

23

24 Service on 24 January was not only by e-mail but also on his
25 solicitor.

26

27 In *PT Sandipala* [47] – element of knowledge includes knowledge
28 of the order and its material terms. To this end, it is not necessary
29 for the complainant to show that the alleged contemnor
30 appreciated that he was breaching the order. Liability is strict in

the sense that all that is required to be proved is service of the order
and the subsequent omission by the party to comply.

Otherwise, it would be too easy to evade, especially in the case of substituted service.

6

7 Ct : There are 4 cases cited there. Do you know the facts of those
8 cases?

9

10 PC : I only have *Pertamina*.

11

12 Ct : Do the facts of *PT Sandipala* concern a claim of lack of knowledge
13 of the order?

14

15 PC : No.

16

17 Ct : What about Pertamina?

18

19 PC : No.

20

21 The proposition we are advancing is that where service has been
22 validly effected, it will be too easy for the defendant to say I
23 somehow did not see this, especially when more than one means
24 of substituted service was adopted.

25

26 Ct : There is a difference between saying that I should deem that there
27 was knowledge just because substituted service had been effected
28 and saying that I should disbelief the lack of knowledge because
29 of circumstantial but nevertheless I should be persuaded that there
30 was actual knowledge.

31

1 PC : We are proposing it on both fronts.

2

3 DC : It is open to Plaintiff to apply for cross-examination.

4

5 Ct : Given dispute on liability for the first charge, is it meaningful to
6 proceed with sentencing submission?

7

8 PC : Our position on sentencing would remain even without the first
9 charge.

10

11 DC : Happy to proceed with submission on sentencing.

12

13 PC : Also point out [10] of my client's first affidavit. To accept
14 Defendant's explanation is to also accept that his lawyers did not
15 bring the order to his attention.

16

17 DC : At that time, Rev Law was representing the company in the
18 arbitration, not representing Defendant in these proceedings.

19

20 Ct : Was Defendant the sole director of Rooftop?

21

22 PC : I think there was one other director who was the in-house counsel.

23

24 But in the arbitration, Defendant was the representative, the only
25 witness and, as far as we know, the only instructing party.

26

27 Moving on to sentencing. We are asking for custodial sentence of
28 at least 7 days.

29

30 *PT Sandipala* [69] – list of factors to be taken into account.

31

1 Coercive considerations must come into play as there was
2 continuous refusal to comply.

3

4 [29] of written submission – sequence of events illustrated that he
5 has the ability to engage counsel to respond but chose not to do so.

6

7 Even if we take his case at face value, that he learned of the order
8 only on 7 February, he has failed to respond to the many
9 reminders. Absolute radio silence.

10

11 Even if we accept that he was disorganized and had other pressing
12 matters, this is not a mitigating factor. He chose to prioritise other
13 matters over the need to comply with a court order.

14

15 See *Global Distressed Alpha Fund* [41].

16

17 Ct : What is the context of [41]? Was Lai J discussing liability or
18 sentence at that point?

19

20 PC : I believe she was addressing the issue of liability at [41]. But I
21 believe this factored into her decision on sentence. See [55] – lack
22 of justifiable excuse, no regard for EJD order, thumbing his nose
23 at the Singapore court were factors taken into account in
24 sentencing.

25

26 He has recently, on 19 June, filed a petition for bankruptcy in the
27 USA. On 11 July 2019, he filed his statement of assets and liability
28 in the US bankruptcy. Stated that his assets were USD16,000
29 while liability was over USD 65 million.

30

1 One of two scenarios must be true. One, he already had very little
2 assets in January. In which case, why could he not file his list of
3 assets which would have been bare. Second, he has deliberately
4 delayed giving details of his assets until his US bankruptcy, at
5 which point he has only \$16,000 of asssets under his name.

6

7 *Tahir v Tay Kar Oon* (HC) – [53] – delay in complying with EJD
8 order till after she was bankrupt caused irreversible prejudice.

9

10 In the present case, the delay was not one month but 6 months.

11

12 *Tahir* (CA) reduced the sentence of 8 weeks to a fine of \$10,000.
13 Reason was that the applicant in that case withdrew the committal
14 proceedings before hearing. Court of Appeal at [59] took the view
15 that there was very little prejudice because bankruptcy set in very
16 soon after the EJD order was granted.

17

18 Court of Appeal also took into account the defendant's medical
19 condition – major depressive disorder.

20

21 One other point which highlights the complete lack of regard
22 which Defendant had for the Singapore proceedings. This stems
23 from correspondence which we received from my learned friend
24 yesterday evening.

25

26 In that correspondence, my learned friend referred to deposition
27 which took place in the US bankruptcy proceedings, where many
28 questions posed were similar to those posed in the EJD
29 questionnaire. Then an allegation was made of material non-
30 disclosure on the part of the Plaintiff.

31

1 The fact that Defendant attended a deposition in US last week had
2 nothing to do with whether he had committed contempt of court.
3 It appears from Defendant's own conduct that he did not believe
4 the deposition to be relevant. Before Defendant filed his reply
5 affidavit, he already knew of the deposition date. If this were
6 material, Defendant ought to have mentioned it in his affidavit.

7

8 DC : The deposition took place after Defendant filed his affidavit and
9 before Plaintiff filed his affidavit in response.

10

11 Ct : I think Plaintiff's Counsel's point is that Defendant knew of the
12 deposition date before filing his affidavit. So if it was material,
13 Defendant should have mentioned it first.

14

15 DC : The point we make is that Defefendant had been forthcoming with
16 his answers about his assets wherever they may be situated. So the
17 Plaintiff's case theory that Defendant was somehow hiding or
18 concealing his personal information is not correct, as evidenced
19 by the Defendant's deposition in the US proceedings.

20

21 PC : Our case theory is that the Defendant hid his assets until the time
22 he filed for bankruptcy in June 2019.

23

24 This demonstrates that he was clearly capable of disclosing his
25 assets. Why didn't he do this in the Singapore court? Clearly, he
26 was thumbing his nose at the Singapore court.

27

28 See [35] of written submission – dilatory tactics in arbitration,
29 misrepresenting assets situation to arbitration.

30

1 (1) The Plaintiff had in fact been significantly and irreparably
2 prejudiced.

3

4 (2) he only attempted to remedy his breach today by filing his EJD
5 affidavit which we have not had the opportunity to review. But our
6 point is that this in fact cannot be remedied because he has placed
7 himself in bankruptcy.

8

9 (3) the breaches were deliberate and he knew of the seriousness of
10 the breaches as he is a seasoned businessman familiar with court
11 processes.

12

13 (4) High culpability.

14

15 (5) failure to cooperate with plaintiff in any way.

16

17 The contempt cannot be purged because of his conduct. He has
18 placed himself in bankruptcy.

19

20 Submit that appropriate sentence should be more than 7 days'
21 imprisonment.

22

23 DC : I wish to take Your Honour through the cases to highlight salient
24 similarities and differences.

25

26 My client had given significant details in his affidavit concerning
27 his business. This was a US-based business, which owns
28 significant Intellectual Property in the US.

29

1 My client has come all the way from Texas to place himself at the
2 mercy of the court. Most of my client's company's assets and his
3 own assets are in the US.

4

5 Plaintiff's last affidavit at page 331 – declaration of intangible
6 assets (Intellectual Property).

7

8 In the EJD affidavit filed today, my client has disclosed his bank
9 statements since January 2019. He has also disclosed details of the
10 Matloff Family Trust.

11

12 This is in contrast with *PT Sandipala* where the affidavits were
13 bare denials with no assets declared.

14

15 Move of the company to Singapore only took place in March
16 2015.

17

18 My client is absolutely remorseful for not filing disclosure of his
19 assets earlier.

20

21 This disclosure has to be seen in the context of him providing as
22 much information as possible to the Plaintiff.

23

24 Context of the arbitration. In February 2019, my client was also
25 trying to get his business in order at the time of the arbitration.
26 Centre of his business was always in the US.

27

28 He was faced not only with business collapse in the US. He was
29 also faced with personal proceedings in Singapore. At that
30 junction, on 7 February 2019, my client hit a spot of turbulence
31 with his lawyers in the arbitration proceedings. My client'

HC/S 450 of 2018
(HC/SUM 2362 of 2019)

10

26 July 2019

1 company was unrepresented from 6 February 2019 onwards. His
2 next set of lawyers came on board only 10 March 2019.

3

4 Comment in *Global Distressed* was the vagueness of excuse and
5 total lack of supporting evidence.

6

7 Hearings missed in *Global Distressed* were 9 EJD hearings over a
8 period of 8 months. Very clear lack of remorse and lack of
9 intention to mitigate breaches there.

10

11 In the present case the period between the first and second charges
12 were 7 days.

13

14 In the *Global Distressed* case, the EJD hearings were on

15

16 3 July 2012

17 14 August

18 4 September

19 6 November

20 6 December

21

22 8 January 2013

23 22 January

24 19 February

25 20 March

26

27 We are asking that the Court impose a fine on our client, anywhere
28 between \$5,000 and \$10,000.

29

30 On prejudice, see [59] of *Tahir* (CA).

31

HC/S 450 of 2018
(HC/SUM 2362 of 2019)

11

26 July 2019

1 The debt which Defendant owed was for a personal guarantee
2 given for the liabilities of Rooftop. Judgment against him was in
3 excess of USD 4 million.

4

5 My client has placed his bank account before this court. He has
6 also gone on record in the US. Nothing to suggest that my client
7 has any amount near the judgment debt, much less dissipating
8 assets.

9

10 Allegation of dissipation was not made in the Statement for
11 liability, and so should not be taken into account in sentencing.
12 Breach of natural justice.

13

14 PC : Unique situation of this case is the substantial delay of 6 months
15 and then he declared himself a bankrupt.

16

17 My learned friend said his client has been very upfront since then.
18 But that is the point. He has been upfront only after he decided to
19 file for bankruptcy. That is not remorse. He has more than 6
20 months. Why do it only today.

21

22 The egregious pattern of Defendant's conduct is set out clearly in
23 the SIAC award, which led to indemnity costs awarded against
24 him.

25

26 See page 11 of his declaration. Rented property since 1 July 2019.
27 What about before 1 July 2019?

28

29 Therefore custodial sentence is warranted.

30

HC/S 450 of 2018
(HC/SUM 2362 of 2019)

12

26 July 2019

1 Ct : Is the O 52 statement merely required to state facts relevant to
2 liability?

3

4 DC : To the extent that these are facts which my client may be subject
5 to penal consequences for, it should not merely be in the O 52
6 statement, but should be in the affidavit in support.

7

8 So if there is an accusation of dissipation, then as a matter of
9 natural justice my client should have an opportunity to rebut that.
10 The allegations of dissipation is not something which my client
11 had the opportunity to respond.

12

13 Ct : **Adjourned for further submission and further affidavits to be
14 filed.**

15

16 I will need further submission on the point made at the beginning
17 of today's hearing as to whether prove of substituted service of the
18 court order is sufficient for liability or whether the court needs to
19 be satisfied that the Defendant had actual knowledge of the court
20 order.

21

22 Defendant to file an affidavit to address the Plaintiff's allegation
23 that the Defendant had delayed compliance with the EJD order in
24 order to dissipate assets and declare himself bankrupt in the US.

25

26 Plaintiff to file an affidavit to comment on the quality of the
27 disclosures in the EJD affidavit filed by the Defendant today, as
28 well as on whether the disclosures EJD affidavit would have
29 mitigating or aggravating effect.

30

31 All these to be done by 13 August 2019.

1
2 HC/S 450 of 2018
3 (HC/SUM 2362 of 2019)

13

26 July 2019

1

2 **Next hearing to be fixed by the Registry on the earliest possible**
3 **date after 13 August 2019 on which all parties are available.**

4

5 DC : Will Your Honour be pronouncing sentence at the next hearing? It
6 involves significant trouble and expense for my client to travel
7 from Texas to Singapore. So if Your Honour is not planning to
8 pronounce sentence at the next hearing but would need further
9 time to consider, I would like to seek leave for my client's
10 presence at the next hearing to be dispensed with.

11

12 Ct : I will be able to pronounce sentence at the next hearing. So please
13 coordinate with Registry and your client to ensure that your client
14 is able to attend the next hearing.

15

16

17

18

19

[sgd]

Judicial Commissioner Pang Khang Chau

Certified True Copy


Private Secretary to Judicial Commissioner
Supreme Court Singapore

DATE: 8/21/19
 BY: *[Signature]*
[Signature]

CAUSE NO. DC-19-12093

TRIUMPHANT GOLD LIMITED,

IN THE DISTRICT COURT

Plaintiff,

v.

101st JUDICIAL DISTRICT

ROOFTOP GROUP SERVICES (US) INC.
ROOFTOP GROUP USA, INC.,

Defendants.

DALLAS COUNTY, TEXAS

SUBPOENA FOR DEPOSITION DUCES TECUM OF EDWARD L. SCHAFMAN, L.C.

THE STATE OF TEXAS

TO: Edward L. Schafman, L.C.
c/o Edward L. Schafman
5218 Spruce Street
Bellaire, TX 77401

Pursuant to Rule 176 of the Texas Rules of Civil Procedure, you are hereby commanded to designate the proper person(s) who have personal knowledge of the matters set forth in Exhibit A, attached hereto, and to appear before a person authorized by law to take depositions for the taking of your deposition and to produce documents in the matter styled as *Triumphant Gold Limited v. Rooftop Group Services (US) Inc., et al*, Cause No. DC-19-12093, in the 101st Judicial District Court, Dallas County, Texas.

You shall appear to give your deposition and you shall produce documents listed in Exhibit B, attached hereto, at your deposition which shall commence at 10:00 a.m. on August 27, 2019, at the office of Compass Reporting, 7020 Portwest Drive, Suite 140, Houston, TX 77024, and shall continue from hour to hour and day to day thereafter until completed. This deposition will be limited to the issues relating to the upcoming temporary injunction hearing and without

Exhibit

F

SUBPOENA FOR DEPOSITION DUCES TECUM

L. SCHAFMAN, L.C. PAGE 1

exhibitsclerk.com

prejudice to reconvene the deposition on the merits after the conclusion of the temporary injunction hearing.

You are being subpoenaed for your deposition and the production of documents at the insistence of Plaintiff Triumphant Gold Limited ("Plaintiff"), and its attorneys of record in this matter, Jacob B. Kring and Britton D. McClung, Hedrick Kring, PLLC.

Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena is issued or a district court in the county in which the subpoena is served, and may be punished by fine or confinement, or both.

ISSUED in Dallas County, Texas, on this 20th day of August 2019.

/s/ Britton D. McClung _____

Jacob B. Kring
Texas Bar No. 24062831
Britton D. McClung
Texas Bar No. 24060248

HEDRICK KRING, PLLC
1700 Pacific Avenue, Ste. 4650
Dallas, Texas 75201
(214) 880-9600 (telephone)
(214) 481-1844 (fax)
jacob@hedrickkring.com
britt@hedrickkring.com

OFFICERS ISSUING SUBPOENA

III.
DOCUMENTS TO BE PRODUCED

The following documents and tangible items are to be produced in accordance with the instructions set out above:

1. Your file for Rooftop Services.
2. Your file for Rooftop USA.
3. **Your file for Darren S. Matloff.**
4. All documents provided to you by Rooftop Services or Rooftop USA.
5. Your engagement letter for Rooftop Services and Rooftop USA.
6. Documents evidencing any incorrect tax reporting for Rooftop Services or Rooftop USA.
7. Documents evidencing any effort to correct any incorrect tax reporting for Rooftop Services or Rooftop USA.
8. A copy of Rooftop Services' or Rooftop USA's federal, state, and local tax information or income tax returns for the past three years.
9. **A copy of Matloff's federal, state, and local tax information or income tax returns for the past three years.**
10. All documents evidencing the value of any and all claimed assets of Rooftop Services and Rooftop USA for the past three years, including accounts receivables, purchase orders, and inventory.
11. All documents evidencing any liabilities of Rooftop Services or Rooftop USA for the past three years.
12. Any income statements for Rooftop Services or Rooftop USA for the past three years.
13. Any balance sheets for Rooftop Services or Rooftop for the past three years.
14. **All documents evidencing any effort to segregate commingled personal expenses of Matloff from legitimate business expenses of Rooftop Services and Rooftop USA for the past three years.**
15. Documents evidencing any personal expenses paid for by Rooftop Services or Rooftop USA for Matloff or his family members.

16. All documents evidencing the compensation or distributions paid from Rooftop Services or Rooftop USA to Matloff (or any of his family members) for the past three years.
17. All documents evidencing the distributions paid from Rooftop Services or Rooftop USA for the past three years.
18. All documents evidencing all contributions made by Matloff to Rooftop Services or Rooftop USA for the past three years.
19. All documents evidencing all sources of cash and/or income to Matloff from Rooftop Services or Rooftop USA for the past three years.
20. All agreements (whether by letter, contract, invoice terms, or otherwise) between Rooftop Services, Rooftop USA, Rooftop Singapore, and/or the Rooftop Enterprise, on the one hand, and any Person, on the other, that reflect loans made to and/or security interest granted by Rooftop Services, Rooftop USA or their affiliates or Insiders for the last three years.